

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

27704

**FILE:** B-213565**DATE:** March 16, 1984**MATTER OF:** Jones Floor Covering, Inc.**DIGEST:**

Bid which omits Standard Form 21, Bid Form for construction contracts, containing material provisions, is nonresponsive since bid does not incorporate or reference the material provisions omitted so that bidder, upon acceptance of bid, clearly would be bound to those material requirements.

Jones Floor Covering, Inc. (Jones), protests the rejection of its bid under invitation for bids (IFB) No. DAAG60-83-B-3698, issued by the United States Military Academy (USMA), West Point, New York, for replacement of resilient floor covering.

Jones' bid was rejected because it did not include a signed Standard Form (SF) 21. The contracting officer states that paragraph 5(a) of SF 22, Instructions to Bidders, required that bids be submitted on the forms furnished and manually signed and that, in the absence of SF 21, Jones' commitment to be bound by its bid was lacking.

Based upon our review of the record, we deny the protest.

Jones states that its bid was submitted on the bid sheet provided with items described 1-17, executed with unit prices and extended prices completely totaled, manually signed, dated and delivered to the bid location and, therefore, contends its bid is responsive. Jones states that SF 21 was not included in its bid package. Jones indicates that amendments 0001 and 0002, which it signed, technically refer to the provisions of SF 21 and all other related documents to the IFB in the sense that the signing of these amendments binds the bidder to all requirements originally required, except as changed or modified by the amendments.

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SF 21 includes language by which the bidder "proposes to perform all work" in strict accordance with "the specifications and drawings with SF 23-A," "General Provisions," and SF 19-A, "Labor Standards Provisions applicable to contracts in excess of \$2,000," and other provisions such as the 60-day bid acceptance period.

Where a bidder fails to return all of the documents which were part of the invitation with its bid, the bid must be submitted in such form that acceptance would create a valid and binding contract requiring the bidder to perform in accordance with all the material terms and conditions of the invitation. See Leasco Information Products, Inc., 53 Comp. Gen. 932 (1974), 74-1 CPD 314. The documents which Jones did submit contained a bid bond, the bid sheet, SF 19B, the corporate certificate and amendments 0001 and 0002.

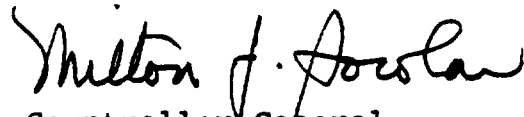
However, none of these documents refer to or incorporate the provisions in SF 21 and, therefore, do not bind Jones to those terms and conditions. The procuring agency also states that Jones did not return pages containing many of the specific and general provisions of the IFB and that Jones did not bind its firm to perform under a requirements contract, as contemplated, with the delivery order limitations set out by the government.

Union City Plumbing, B-208500, June 7, 1983, 83-1 CPD 614, involved a similar situation where a bidder failed to submit SF 21 with its bid. We held that such a bid which did not incorporate or reference the material provisions omitted was properly rejected as nonresponsive. In our view, the contracting officer properly concluded that Jones was not unalterably committed to all the material terms and conditions of the solicitation here.

Also, in Union, we found that acknowledging amendments does not serve to incorporate the missing SF 21 provisions into a bid. Jones' bid sheet does not include a commitment by the bidder to perform in accordance with those terms and conditions. Some of the provisions in SF 21, such as start-up and completion times, are material. Amendments Nos. 0001 and 0002 each stated: "Except as provided herein, all terms and conditions of the documents referenced in block 8, as heretofore unchanged, remain unchanged and in full force and effect." This language did not incorporate the SF 21 provisions into Jones' bid. The language indicates that the IFB was unchanged except for: estimated value and date of bid opening in amendment No. 0001 and the incorporation of

a wage determination and second new bid opening date and time in amendment No. 0002. This language did not establish what the other unchanged terms and conditions of the solicitation were, nor did it include a commitment by Jones to perform in accordance with those terms and conditions.

The protest is denied.

A handwritten signature in black ink, reading "Milton J. Fowler". The signature is written in a cursive style with a large initial "M" and a long, sweeping underline.

Acting Comptroller General  
of the United States